

b.) Remarks

Claims 1-4, 6-20, and 22-45 are pending in this application. Claims 1, 2, 6, 10, 13-15, 17, 22-24, 26-29, 31-32, 34, and 37-39 have been amended in various particulars as indicated hereinabove. Claims 5 and 21 have been canceled. New claims 40-45 have been added to alternatively define Applicants' invention.

Claims 1, 2, 5, 6, 17, 18, 21, 22, 31, 32 and 37-39 were rejected under 37 U.S.C. § 102(e) as being anticipated by the Foster Non Provisional Application (US 2003/0202536). Claims 3, 4, 7-16, 19, 20, 23-30 and 34-36 were rejected under 37 U.S.C. § 103(a) as being unpatentable over the Foster application. These rejections are respectfully traversed for the following reasons.

It is understood that the cited Foster Non Provisional Application *per se* is not prior art. Instead, the prior art reference is the cited Foster Provisional Application (Provisional Application No. 60/287,075), to which the Foster Non Provisional Application claimed priority.

Each of the independent claims has been amended to describe that a router is used. Specifically, in for example claim 1, the second group of network traffic is regulated in order to assist the router in meeting its service level for the first group of network traffic.

The relevant section of the Foster Provisional Application was identified as pages 259-268. These pages concern quality of service overview in a node-to-node data transfer process. Specifically, a fiber channel port system is used to control data transfer between the nodes.

As is known, a fiber channel is a switching system. In contrast, each of the pending claims concern routers. There is nothing in the application to suggest that these quality of service processes could be applied to the claimed routers.

Application No.: 09/920,335
Amendment dated: August 1, 2006
Reply to Office Action of March 17, 2006
Attorney Docket No.: 0016.0010US1

For these reasons, Applicants believe that the present claimed invention is distinguishable over the applied reference. Withdrawal of this rejection is respectfully requested.

Respectfully submitted,

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Date: August 1, 2006